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November 8, 2013

The Honorable Tom Wheeler, Chairman
Federal Communications Commission
445 12th St SW
Washington, D.C., DC 20536

**Re: Reply Comments on Notice of Proposed Rulemaking – Modernizing
the E-Rate Program for Schools and Libraries, WC Docket No. 13-184**

Our Mission
Working with and
Through our State
Associations, NSBA
Advocates for Equity
and Excellence in
Public Education
through School Board
Leadership

Office of Advocacy

David A. Pickler
President

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Dear Chairman Wheeler:

On behalf of the National School Boards Association (NSBA), which represents the nation's 90,000 local school board members, allow me to congratulate you on your swearing in this week as chairman of the Federal Communications Commission (FCC). Your appointment comes at an important juncture in our history, and NSBA is pleased to submit reply comments on Modernizing the E-Rate Program for School and Libraries. As you know, the Notice of Proposed Rulemaking (NPRM) is the most comprehensive call for modernization of the Schools and Libraries Program of the Universal Service Fund since it was enacted in 1996, and builds on the transformative impact of E-Rate on schools and libraries over the last seventeen years.

NSBA reiterates our September 16, 2013 comments, which are summarized at the end of this correspondence. Further, NSBA has additional comments, representing input from state school boards associations regarding the E-Rate program.

- 1. Modernization of E-Rate must take into account the individual circumstances of the nation's 14,000 school districts and 98,000 public schools.** Put eloquently by the Pennsylvania School Boards Association: *School entities across the nation are diverse in their composition and their needs. Local decision-making and local flexibility should be maximized in implementation of the E-Rate program.*
- 2. Broadband deployment goals must be determined and implemented locally, with E-Rate support** (section I. B.). Rural school districts may have particular challenges with regard to Broadband. In rural states and rural areas within states, Broadband access may not yet be feasible. Therefore, E-Rate support should not be conditional on setting or achieving broadband goals established at the national level.
- 3. Refrain from adding or eliminating eligible uses of E-Rate until a permanent increase in the funding cap is achieved to meet current demand.** As stated in NSBA's earlier comments, achieving the goal of the NPRM to ensure that schools and libraries have access to 21st Century Broadband will require a substantial and ongoing increase in resources, even as we vigorously pursue efficiency and cost effectiveness in the program. Anything less will merely redirect resources, but not meet new goals for the program.

For example, a compelling case can be made for supporting one-time capital expenditures to provide schools and libraries with capacity to deploy Broadband. However, this vital investment will not address the well-documented demand for current eligible services (\$5 billion). Further, not all schools and districts are in a position to eliminate current uses, such as voice, email or web hosting services (paragraphs 105, 108). Nor is the program sufficiently resourced currently to support additional uses of funds, such as devices. As important and desirable as they may be to digital learning, adding or eliminating eligible uses of funds is dependent on resources (paragraphs 10, 27, 217).

Therefore, E-Rate modernization must include a permanent increase in the cap to at the very least, meet current demand (\$5 billion).

NSBA strongly affirms the transformative potential of digital learning to improve student achievement, as well as the foundational role played by E-Rate in bringing capacity and connectivity to school districts. How that capacity is utilized for content and delivery of instruction will vary as widely as the number of schools and districts in the program. That E-Rate utilization decisions are made locally is in fact one of the greatest strengths of the program, and will support the success of E-Rate 2.0 in the decades ahead.

Additionally, NSBA addresses the following legal and implementation concerns raised by the FCC in its NPRM:

4. Educational Impact Measurements The FCC asked whether there is a “way to measure how success in the classroom is affected by access by E-rate funding or services supported by E-rate?”¹ While NSBA is supportive of the internet and other services that the E-rate program provides to school districts, there is concern about tying student academic performance to internet access through E-rate funding. First, ascertaining academic success, or “success in the classroom”, as stated but undefined in the NPRM, is completely outside the “agency’s core competence” and jurisdiction,² and is a matter best left to education professionals working at the local level. Second, it is unclear what such measures of “academic success” would look like, since there are no national standards for ascertaining student achievement, nor any tests implemented on a national basis from which to draw comparisons across districts. Third, not all classroom teachers use their school’s internet access to the same degree in their daily instruction across the curriculum, such that it would be practically impossible to determine whether, and to what extent, a district’s access to the internet had any impact whatsoever on student achievement. Given the academic freedom that school teachers have, and choose to exercise, in their delivery of a school district’s and state’s required curricular content, it would be inappropriate to connect E-rate funding to educational outcomes.

5. Limiting E-rate Funding to Services for the “Core Purpose of Educating Students” The FCC also inquired whether it should make changes to the E-rate program to ensure that supported services are, at a minimum, used for the “core purpose of educating students.”³ Here, the FCC suggests that E-rate support should not be permitted when such services “will be used only by school and library staff, administrators, or board members,” or “are inaccessible to students” NSBA is concerned about the vagueness of the meanings of the phrases “support used for educational purposes” and “services ... not directly tied to education”, because NSBA believes that all staff members of a school and school district contribute in their own unique ways to the direct education

¹ E-rate NPRM, pp. 14-15, ¶ 40.

² The FCC was created for the purpose of “regulating interstate and foreign commerce in communication by wire and radio so as to make available ... a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges,” 47 U.S.C. § 151.

³ E-rate NPRM, p. 30, ¶ 100.

of students, whether related to curriculum, appropriate behavior, discipline, etc. Thus, it would be difficult and cost-ineffective to monitor each employee's use of an E-rate-supported computer or service to determine how much time is spent accessing the internet for purposes that do or do not contribute to the "direct education of students". Additionally, simply because E-rate services are not always "directly available to students" through computers, telephones, WiFi connections, etc., does not mean that the staff using those services will not obtain information that can contribute directly to the education of the school's students.

6. Review and Assessment of Broadband Needs/Staff Professional Development. The FCC also asks whether to require schools to assess their need for and readiness to use high-capacity broadband, and the methods of such assessments.⁴ The FCC also asks whether it should require schools to plan for providing a device to every student or for a small group of students, to provide professional development to its staff regarding how to take advantage of high-quality broadband and devices/applications, to demonstrate their plans for using the bandwidth, and to incur consequences if an "inadequate needs assessment" is conducted. NSBA is concerned about the unanticipated additional costs school districts may incur with such requirements, and whether those costs will be included in the E-rate support. School districts across the country are already financially strapped, as state and federal contributions to the districts' annual budgets continue to shrink each year. School districts already have to do more with less. Expanding a school district's obligations related to E-rate by requiring additional professional development to staff, planning for providing computers to all or groups of its students, hiring professionals to conduct broadband needs assessments, etc., only further hampers each school district's ability to succeed in its mission of educating and protecting this nation's students.

Finally, NSBA applauds the Commission's proactive efforts to ensure efficient operation and integrity of E-Rate, increase the quality and speed of connectivity in our nation's schools, and address the technology gaps that remain. In support of these efforts, we offer the recommendations above and summarize NSBA's September 16th comments below:

- The E-Rate program has a remarkable record of success.
- Identify additional funding to support Broadband to Schools and Libraries as a vital first step.
- Streamline administration of the E-Rate program.
- Do no harm to high need schools and libraries currently participating in the E-Rate program.
- Develop robust data and evidence on current eligible uses of funds prior to phasing down support for certain services.
- Maximize local flexibility to use E-Rate to meet speed, connectivity and technology goals without federal mandates or imposing conditions for receipt of E-Rate resources.

NSBA recognizes that moving forward as a nation to reach our 21st Century learning goals requires the wholehearted participation by a broad range of stakeholders, including civic, civil rights, business, education, technology and other organizations. That is why NSBA also supports the recommendations of the Education and Libraries Network Coalition (EdLiNC), of which we have been a member since its inception.

Thank you for the opportunity to share our concerns and recommendations. Questions regarding our comments may be directed to Lucy Gettman, director of federal programs at 703-838-6763; or by e-mail at lgettman@nsba.org.

Sincerely,



⁴ E-rate NPRM, p. 58, ¶ 217.

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